

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 14 MAR 2006

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Applicant's or agent's file reference GL219980-142	<b>FOR FURTHER ACTION</b> See Form PCT/IPEA/416	
International application No. <b>PCT/NZ2005/000054</b>	International filing date ( <i>day/month/year</i> ) 24 March 2005	Priority date ( <i>day/month/year</i> ) 26 March 2004
International Patent Classification (IPC) or national classification and IPC  Int. Cl.  <b>A61F 9/007</b> (2006.01) <b>A61M 5/00</b> (2006.01)		
Applicant <b>MOLTENO OPHTHALMIC LTD et al</b>		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a. ☐ (*sent to the applicant and to the International Bureau*) a total of      sheets, as follows:
    - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b. ☐ (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s))      , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
 

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand 29 August 2005	Date of completion of this report 24 February 2006
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>BAYER MITROVIC</b> Telephone No. (02) 6283 2164

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/NZ2005/000054

## Box No. I Basis of the report

1. With regard to the **language**, this report is based on:

- ☒ The international application in the language in which it was filed
- ☐ A translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3(a) and 23.1 (b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ the international application as originally filed/furnished
- ☐ the description:
- |        |  |
|--------|--|
| pages  | as originally filed/furnished                          |
| pages* | received by this Authority on _____ with the letter of |
| pages* | received by this Authority on _____ with the letter of |
- ☐ the claims:
- |        |   |
|--------|---|
| pages  | as originally filed/furnished                             |
| pages* | as amended (together with any statement) under Article 19 |
| pages* | received by this Authority on _____ with the letter of    |
| pages* | received by this Authority on _____ with the letter of    |
- ☐ the drawings:
- |        |  |
|--------|--|
| pages  | as originally filed/furnished                          |
| pages* | received by this Authority on _____ with the letter of |
| pages* | received by this Authority on _____ with the letter of |

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

\* If item 4 applies, some or all of those sheets may be marked "superseded."

**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 1-19	YES
	Claims	NO
Inventive step (IS)	Claims 1-19	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-19	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)****Citations:**

D1: US 4750901. Document discloses an implant for drainage of aqueous humour comprising episcleral plate having an elevated peripheral ridge, a drainage tube having an opening inside elevated ridge and a second elevated ridge circumferentially positioned, dividing the upper surface of the plate in two areas. Plate is sutured to the eye and covered by a smooth layer of Tenon's capsule.

D2: WO 1996/036377. Document discloses an ophthalmic implant for treatment of glaucoma comprising a tube attached to a flanged disk which includes an elliptical base, an outer rim, an inner rim. Two rims are defining two regions. However primary drainage region does not exist as such and only second region is used as a drainage reservoir. In addition, the inner rim has U-shaped passageways to allow flow of aqueous humour from inner region into the outer region.

None of the documents disclose or obviously suggest the feature of no peripheral or outer ridge at all or, if there is an outer ridge, then the outer ridge has the height lower than the height of the inner ridge.

**CLAIMS 1-19 – NOVELTY AND INVENTIVE STEP.**

In light of these observations it is concluded that all claims 1-19 are both novel and inventive comparing to any of documents D1 and D2.

The invention defined in all claims is industrially applicable.

**Box No. VIII    Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 1 is not clear because the phrase "...optionally an outer ridge..." This phrase renders the claim 1 ambiguous as to whether this feature is part of the claimed implant or not. From the applicant's communication it is clear that the claimed device either does not have an outer ridge or, if it does have the outer ridge, then the height of the outer ridge is smaller than the height of the inner ridge. It is necessary to reformulate claim 1 so to accurately express this circumstance.